

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Central Division

Civil Action No. 04 CV 40071 NMG

DAMON ASHER (Formerly Damon )	)
Milhem)	)
Plaintiff,	)
v.	)
	)
DISCOVER FINANCIAL	)
SERVICES, INC.	)
Defendant	)
	)

**ASSENTED-TO MOTION OF  
DISCOVER FINANCIAL SERVICES,  
INC. TO EXTEND THE TIME FOR  
FILING A RESPONSIVE PLEADING  
TO PLAINTIFF'S AMENDED  
COMPLAINT**

Defendant, Discover Financial Services, Inc. ("Discover"), hereby respectfully moves to extend the time for Discover to file a responsive pleading to the plaintiff's Amended Complaint until (10) days following the entry of any order with regard to the plaintiff's May 24, 2004 Motion to Remand. As grounds for this motion, Discover states as follows:

1. The present action was removed from the Leominster District Court by Discover on May 7, 2004.
2. On May 11, 2004, Plaintiff filed his Objection to Defendant's Notice of Removal. Discover filed a response to the Objection on May 17, 2004.
3. Subsequently, counsel for Discover initiated a conference with counsel for the plaintiff, pursuant to Local Rule 7.1(2), to advise the plaintiff that Discover intended to file a motion to dismiss the plaintiff's Complaint.
4. On May 24, 2004, counsel for the plaintiff informed counsel for Discover that the plaintiff intended to file an amended complaint, omitting the purported Federal claim contained within the original Complaint, and intended to file a motion to remand to

state court. On the same day, the plaintiff did in fact file his Amended Complaint and also filed a motion to remand to state court.

5. Because a response to the plaintiff's Amended Complaint, pursuant to Fed. R. Civ. P. 15, is due prior to the date by which an opposition to the plaintiff's motion to remand is due, Discover requests that this Court extend the time for Discover to answer or otherwise move until ten (10) days after the Court addresses the motion to remand.

6. Discover does not anticipate opposing the plaintiff's motion to remand the case to state court because the plaintiff has amended the Complaint to exclude the purported Federal claim.

7. Plaintiff's counsel has assented to this Motion.

WHEREFORE, Discover respectfully requests that this Court extend the time for Discover to file a responsive pleading to the plaintiff's Amended Complaint until (ten) 10 days from the date of entry on plaintiff's motion to remand to state court.

Respectfully submitted,

DISCOVER FINANCIAL SERVICES,  
INC.

By its attorneys,

/s/ Andrew J. Drayer

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ASSENTED-TO BY:  
PLAINTIFF, DAMON ASHER  
By his attorney,

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Dated: May 26, 2004